



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HIGHLAND COURT INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, OLC, FFT

Introduction

On December 28, 2022, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) seeking to cancel a One Month Notice to End Tenancy for Cause dated December 22, 2022, (“the One Month Notice”).

The Landlord and Tenant appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me.

The parties confirmed that they had exchanged the documentary evidence before me. I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

- Does the Landlord have sufficient cause to end the tenancy?

Background and Evidence

Both parties testified that the tenancy began on December 16, 2015, on a month-to-month basis. Rent in the amount of \$916.55 is due by the first day of each month. The Landlord provided a tenancy agreement addendum that lists Ms. C.S. (daughter) as an occupant of the unit.

The Landlord served the One Month Notice to the Tenant on December 22, 2022, by attaching it to the door. The One Month Notice has an effective date (the date the Tenant must move out) of January 31, 2023.

The Landlord selected the following reasons for ending the tenancy within the One Month Notice:

Tenant or a person permitted on the property by the Tenant has engaged in illegal activity that has, or is likely to:

- *Jeopardize a lawful right or interest of another occupant or the Landlord*
- *Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written Notice to do so.*

The One Month Notice provides information for Tenants who receive the Notice. The Notice states that a Tenant has the right to dispute the Notice within 10 days after receiving it by filing an Application for Dispute Resolution at the Residential Tenancy Branch. If a Tenant does not file an Application within 10 days, the Tenant is presumed to accept the Notice and must move out of the rental unit or vacate the site by the effective date set out on page 1 of the Notice.

The Tenant disputed the One Month Notice on December 28, 2022 within the required time period.

The Landlord testified that there are ongoing problems with the Tenant's daughter and her boyfriend involving drugs, missing parcels, and the boyfriend being found passed out on the residential property.

The Landlord stated that the Tenant was served with warning letters on November 3, 2022 and on November 14, 2022. The Landlord provided a copy of warning letter dated November 3, 2022 related to a noise complaint. The Landlord provided a copy of warning letter dated November 14, 2022 related to criminal activity by the Tenant's daughter C.S. and a person named Steven.

The Landlord submitted a tenancy addendum signed by the Tenant in agreement that illegal activities on the residential property will be good cause for a notice to end tenancy.

The Landlord provided a copy of a incident report dated December 22, 2022 for an incident that occurred on December 16, 2022. The complainant states that the person named steven was found in the back stairwell with two packages that did not belong to him. The report states that Steven is the boyfriend of C.S.

The Landlord was asked whether he reported the incident to the police and he replied "no". He stated that the police will say there is nothing they can do.

The Landlord was asked if he spoke to the Tenant about the allegation against her daughter prior to issuing the One Month Notice and he replied "no".

The Landlord stated that the Tenant should be held responsible for letting Steven in the building; but conceded that he has no evidence that C.S. permitted Steven onto the property on December 16, 2022.

In reply, the Tenant stated that she has three daughters, and that Steven is the boyfriend of her oldest daughter, and she does not live at the building. The Tenant also testified that her daughter C.S. moved out of the building about 3- 4 months ago.

The Tenant testified that she never received warning letters from the Landlord dated November 3, 2022 and November 14, 2022.

The Tenant stated that she asked the Landlord why he didn't call the police about the packages incident and the Landlord would not answer her.

The Tenant stated that she does not let the Steven into the building; other people do as he may know other people living in the building.

The Tenant stated this is an unfair eviction and she is not involved.

The Landlord was invited to respond to what the Tenant stated and he replied that he has nothing further.

Analysis

In the matter before me, the Landlord has the burden of proof to prove that the reasons for ending the tenancy in the Notice are valid and sufficient. Based on the evidence and testimony before me, I make the following findings:

The Tenant refuted that she had received the two warning letters from the Landlord and the Landlord did not respond by providing testimony on how and when the warning letters were served to the Tenant. I find there is insufficient evidence from the Landlord to prove that the Tenant received these two warning letters.

I find that there was no evidence provided by the Landlord that the Tenant's daughter allowed Steven into the building on December 16, 2022. The incident report states that Steven is C.S. boyfriend but does not say C.S. let him into the building.

I find that the Landlord has not provided sufficient evidence that a person permitted on the property by the Tenant has engaged in illegal activity that has, or is likely to jeopardize a lawful right or interest of another occupant or the Landlord or that there was a breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

Therefore, I cancel the One Month Notice to End Tenancy for Cause, dated December 22, 2022.

I order the tenancy to continue until ended in accordance with the Act.

Section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. As the Tenant was successful with her application, I order the Landlord to repay the \$100.00 fee that the Tenant paid to make application for dispute resolution. I authorize the Tenant to withhold \$100.00 from one (1) future rent payment.

Conclusion

The Tenant's application is successful. The One Month Notice issued by the Landlord dated December 22, 2022, is cancelled.

The tenancy will continue until ended in accordance with the Act.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: February 14, 2023

Residential Tenancy Branch